

Tax Law/BACC3004 - Assignment 2

Student's Name

Institution

SAMPLE

Question 1

(A)

A fringe benefit is defined as the payment that is done to an employee but in a different form and not necessarily a wage or salary. With the case of Mary, it is noted that who is a working partner with Damon, a salesperson received a car to use. In this case, it is noted that Mary would utilize the car in the activities related with marketing of the products. In this case, Mary is a partner and thus does not constitute the definition of the employee-employer relationship as defined by the FBTAA 1986, section 136(1) (Black, 2008). This means that the monetary value of this car will be perceived as ordinary income which means it will be subjected to the Income tax Assessment act 1997 and thus not by the FBTAA. As per TR 92/15, the car becomes an expense which is paid for by the company hence this is an employee allowance and not a fringe benefit.

(B)

The case of Gabby becomes a bit complex than that of Mary given the fact that operates a business of offering advertising consulting services to clients and thus Biscuit Company offers Gabby a Mercedes for use rather than paying her a service. This translates to a fringe benefit since Gabby is being paid for her services in other terms rather than with salary and wages whereby in this situation, it is assumed that the consulting services between Gabby and Biscuit Company will be that of an employee-employer relationship with Biscuit Company being the employer in this case. This means that the employment relationship will exist in such an arrangement and thus will be subjected to FBT as stipulated by FBTAA 1986 (Black, 2008).

(C)

Nigel is an employee for Biscuit Company as a salesperson. However, it is not stated under what condition is the car given nor is the issuing of the car going to compensate for anything which means Nigel will still receive the due wages or salaries. In this case, the minatory value of the car will thus be regarded as allowance and can be included in ordinary income for Nigel hence will be taxed as per 4-1 section of the ITAA 1997 and not by FBTAA 1986 (Black, 2008).

(D)

Tristan is an employee of the company and is given a car, that is , a jaguar rather than receiving his director's fee. This kind of transaction directly confirms with the definition of a fringe benefit which is payment that is done to an employee but in a different form and not necessarily a wage or salary (Black, 2008). According to the definition given by section 136 (1) of FBTAA 1986, Tristan is an employee who is given a certain benefit which is a car in this case, rather than being offered his due directors fee hence the jaguar now belongs to him and in this case, this translates to a fringe benefit offered to Tristan.

Question 2

In Australia, tax deduction is the amount of money claimable by a tax payer in order to offset amount of tax owed and the deductions are related to business or employment activities as stipulated by the Income Tax Assessment Act 1997 (ITAA 1997) (Heath, 2021). Franklin, who is a medical doctor and a scientist and is engaged in various practices and activities which encompass various instances in which money is spend. In this case, the first thing to show is the aspect of tax deductibility, that is, whether the expense is tax deductible or not. The main aspects to be taken into consideration are shown in the list below:

- Hospital to university (\$800)-allowed
- Fare home to hospital (\$1,200)-allowed
- University to home (\$1,000) -allowed
- Rent office (\$10,000 a month)-allowed
- Pet minding fees (\$ 20,000 in the incoming year)-not allowed

As shown in the above decisions made on the various aspects of tax deductible, as a medical practitioner, the expenses which will be allowed for tax deductible include the fares related to his business activities, and the rental for his Office. On the other hand, the pet minding expenses which incurs an amount of \$ 20,000 in the incoming year is not deemed to be a business expenses but rather, it is a personal and a preference expense since Franklin could choose to sell the pet or offer it to his local animal shelter if it was an inconvenience to him hence this will not be allowed as to tax deductible since it is a personal expense for Mr. Franklin.

With respect to the fare from the hospital to the university, this is part of Franklin's official work as a medical practitioner and as a researcher and hence it will be allowed as tax deductible since it is not a personal expense but rather, an expense which is incurred in the line of duty. Moreover, even if the doctor was going to the university for study purposes, as a medical practitioner and as a researcher, he is required to continue receiving more knowledge so as to continue refining his skills so as to be better at his practice hence this is a tax deductible official expense.

In this case, the aspect of tax deductible has to be justified with respect to whether the expenses incurred are in the line of duty and not personal expenses (Heath, 2021). Moreover, these expenses need to be documented and official documents such as receipts and invoices need to be provided. In a situation whereby it is proven beyond any reasonable doubt that the expenses

were incurred in the line of duty and it was not just a personal expense or an expense coming from a personal preference which costs more money than would be deemed to the normal expenses, then this is a professional expense and thus it qualifies for tax deductible (Barrett, 2021). It is thus summarized that for Franklin, the tax deductible expenses are; Hospital to university fare, Fare home to hospital fare, University to home fare and Rent office whereas the money incurred on pet minding is not tax deductible.

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References

- Barrett, J., 2021. Dissonance between fact and law: The example of visual artistic practice and income tax concessions for peak copyright. *Victoria University of Wellington Law Review*.
- Black, C., 2008. Fringe benefits tax and the company car: aligning the tax with environmental policy. *Environmental and Planning Law Journal*, 25(3), pp.182-195.
- Heath, S., 2021. Tax Files: The future of tax in Australia. *Bulletin (Law Society of South Australia)*, 43(1), pp.36-37.

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